

Remarks

Applicants respond herein to each of the issues raised in the Final Action. Applicants submit that the present application is in form for allowance for the reasons more fully discussed below.

Rejections Under Section 101:

Claims 3-7, 9-12 and 14-21 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Final Action, p. 2. While Applicants do not agree with the basis of these rejections, Applicants submit that these rejections are, in any event, obviated by the addition of the phrase "computer implemented" to Claim 14 above as suggested by the Examiner in the Final Action.

Rejections Under Section 112:

Claims 9-10, 15, 19 and 21 are rejected under 35 U.S.C. § 112 as being indefinite, with particular basis for the rejection provided for Claims 15, 19 and 21. Final Action, p. 3. Applicants submit that this rejection is obviated by the amendments to the claims above. In particular, Claims 15, 19 and 21 have been amended to delete the objected to clause "and/or" and new Claims 23-25 have been added including the deleted portion of the and/or clause recitation in corresponding ones of amended Claims 15, 19 and 21. For the Examiner's reference, Applicants submit that and/or is not indefinite. By way of example "A and/or B" would encompass any of: 1) A; 2) B; and 3) A and B. However, to expedite issuance of the present application Applicants have, nonetheless, deleted references to and/or in the claims.

Rejections Under Section 103:

Claims 3-7, 9-12, 14-17 and 19-22 are rejected under 35 U.S.C. § 103 as being unpatentable over Boswell, Inside Windows Server ("Boswell") in combination with United States Patent No. 5,878,408 to Van Huben et al. ("Van Huben"). Final Action, p. 3.. Claim 18 is rejected under 35 U.S.C. § 103 as being unpatentable over Boswell and Van Huben in combination with United States Patent Publication No. 20020095524A1 to Sanghvi et al. ("Sanghvi"). Final Action, p. 8. The rejections generally correspond to those in the previous

Office Action with the addition of reliance on Van Huben. Accordingly, to facilitate the Examiner's reconsideration of the present rejections, Applicants will limit their comments herein to the newly raised issues. However, to assure that this amendment is fully responsive, the Applicants' previous Amendment is incorporated herein by reference in its entirety.

To establish a *prima facie* case of obviousness, the prior art reference or references when combined must teach or suggest all the recitations of the claims, and there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. See M.P.E.P. § 2143. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. See M.P.E.P. § 2143.01(citing *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990)). As emphasized by the Court of Appeals for the Federal Circuit, to support combining references, evidence of a suggestion, teaching, or motivation to combine must be clear and particular, and this requirement for clear and particular evidence is not met by broad and conclusory statements about the teachings of references. *In re Dembiczak*, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999). In another decision, the Court of Appeals for the Federal Circuit has stated that, to support combining or modifying references, there must be particular evidence from the prior art as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed. *In re Kotzab*, 55 U.S.P.Q.2d 1313, 1317 (Fed. Cir. 2000).

Furthermore, as stated by the Federal Circuit with regard to the selection and combination of references:

This factual question of motivation is material to patentability, and could not be resolved on subjective belief and unknown authority. It is improper, in determining whether a person of ordinary skill would have been led to this combination of references, simply to "[use] that which the inventor taught against its teacher." W.L. Gore v. Garlock, Inc., 721 F.2d 1540, 1553, 220 USPQ 303, 312-13 (Fed. Cir. 1983). Thus the Board must not only assure that the requisite findings are made, based on evidence of record, but must also explain the reasoning by which the findings are deemed to support the agency's conclusion....

In re Sang Su Lee, 277 F.3d 1338, 1343 (Fed. Cir. 2002).

Applicant submits that the Final Action has failed to establish a *prima facie* case of obviousness as a proper motivation to combine the references in the manner cited in the claims has not been established. In addition, even were the references to be combined as cited by the Final Action, the combination would not disclose or suggest the recitations of the pending claims. Accordingly, the rejections should be withdrawn for at least these reasons.

In rejecting independent Claim 14, the Final Action acknowledges that Boswell does not teach "detecting a problem with a selected one of the plurality of objects; and restoring the selected one of the plurality of policy objects without restoring others of the plurality of policy objects." Final Action, p. 4. Van Huben is relied on as teaching "restoring individual data objects." Final Action, p. 4. The Final Action further relies on the following statement in Boswell in alleging a motivation to combine the references: "One drawback to the new backup strategy ... does exist. You cannot back up or restore just the Registry or just the Directory or just the boot files. You must back up and restore all system files at once." Boswell, Chapter 11, page 1. However, even if this is assumed to be a motivation to combine Boswell and Van Huben, the result would not be the present invention as recited in Claim 14.

More particularly, Boswell relates to Microsoft's Active Directory, which is clearly "a directory service of a computer system" as recited in Claim 14. However, the portion cited by the Office Action in Boswell is discussing a problem with having to back up or restore "all system files at once." The system files include not only the Directory but also other Windows operating system features referred to as the Registry and the boot files. While Active Directory does interact with and affect the Registry, it does not include the Registry or the boot files.

Claim 14 recites that the "selected one of the plurality of policy objects" is "**associated with the directory service.**" (Emphasis added.) The cited portion of Boswell fails to even identify any need to provide for separate back up or restore of objects within the Directory. Instead, Boswell identifies a problem that files not associated with the Directory must be backed up or restored whenever the Directory is backed up or restored. Thus, even were Van Huben to be combined with Boswell, the combination would not disclose or suggest the invention as recited in Claim 14 as the Directory would still all be restored at

once, it would just not be necessary to restore the Registry and boot files at the same time. Accordingly, the rejection of Claim 14 should be withdrawn for at least these reasons.

In addition, Van Huben is directed to a "design control system suitable for use in connection with the design of integrated circuits and other elements of manufacture," as contrasted with the operating system (Windows) of Boswell. Van Huben, Abstract. As stated in Van Huben:

Our invention provides for processing and tracking data for a Data Management Design Control System running in a client server environment where elements of the system may exist on a homogenous computer platform, or the elements may be scattered across multiple platforms in a heterogeneous environment. The Design Control System provides processes for hardware design, software development, manufacturing, inventory tracking, or any related field which necessitates execution of repetitive tasks against multiple iterations of data in a quality controlled environment.

Our invention provides a design control system usable in a concurrent engineering process which can cooperate in a distributed environment worldwide to enable a design to be processed with many concurrent engineering people and processes.

Van Huben, Col. 5, line 54 to Col. 6, line 2. Thus, while the cited portions of Van Huben may relate to selective restoring of "data objects," they do not relate to policy objects of a directory service as recited in Claim 14 and discussed in Boswell. Nothing in Van Huben appears to provide any motivation to apply particular features of a cooperative design control system to the back up or restore of a Directory of a Windows operating system as discussed in Boswell. Accordingly, the rejection of Claim 14 should also be withdrawn as nothing in either of the cited references supports the combination relied on for the rejections.

Independent system Claim 22 includes recitations corresponding to those discussed above with reference to Claim 14. In fact, the Final Action states that Claim 22 "is rejected for the same reasons as claim 14." Final Action, p. 8. Accordingly, the rejection of Claim 22 should be withdrawn at least for reasons substantially corresponding to those discussed above with reference to Claim 14.

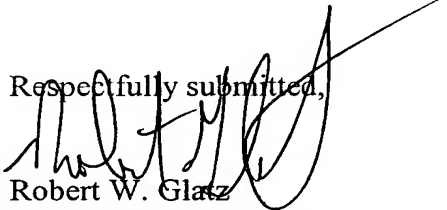
The dependent claims are patentable at least based on their dependence from a patentable independent claim. Furthermore, some of the dependent claims are separately patentable. For example, the rejection of Claim 17 cites to page 5 of Chapter 11 of Boswell

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as teaching replicating objects across domain boundaries. Final Action, p. 6. However, the cited portion of Boswell states "[o]nly properties are replicated, not entire objects." Claims 20 and 21 also include recitations related to restoring objects across domains. Accordingly, Claims 17, 20 and 21 are also separately patentable for at least these additional reasons.

Conclusion

In view of the above, Applicants submit that the pending claims are in condition for allowance and respectfully request allowance of the present application. If further informalities are noted, the Examiner is encouraged to contact the undersigned by telephone to expedite allowance of the present application.

Respectfully submitted,

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